

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Caroline Wolfort-Britwood
Plaintiff(s)

v.

José Rodríguez Reyes and Fernando
de Jesús Martínez
Defendant(s)

CIVIL NO. 05-1608 (JAG)

ORDER

Plaintiff Caroline Wolfort-Britwood filed a pro-se complaint alleging that she is a disabled individual who has suffered damages because of to the existence of physical barriers at her place of residence- Condominio Santa María in San Juan, Puerto Rico-in violation of the Americans with Disabilities Act ("ADA").

Defendants move to dismiss, arguing that plaintiff's complaint is outside the purview of the ADA. For the reasons set forth below, the Court hereby **GRANTS** the defendants' "Motion to Dismiss."

DISCUSSION

Title III of the ADA, 42 U.S.C. § 12181, prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed and altered in compliance with the accessibility standards established by the corresponding

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Regulations.

Section 301(2)(A) and (B) of ADA's Title III defines "commercial facilities" as those that are intended for "noncommercial use" and "whose operations affect commerce." 42 U.S.C. § 12181 (2)(A) and (B). Furthermore, a residential building is clearly excluded from the definition of "public accommodation." Section 301(7). 42 U.S.C. § 12181(7).

Therefore, the requirements of Title III of the ADA are not applicable to private residential condominiums. The Court hereby **DISMISSES** the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). All pending motions are **MOOT**.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 1st day of july of 2005.

s/Jay A. Garcia-Gregory

JAY A. GARCIA-GREGORY

United States District Judge